

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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**The Minutes**

**August 18, 2003**

At 9:31 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Blease, Acting Presiding Justice; Sims, Associate Justice; Hull, Associate Justice and Guzman, bailiff.

**C042200      ADVOCATES FOR SAFE NEIGHBORHOODS v. BUSHNELL**

Cause called. Scott A. Bovee argued for appellant. Donald B. Mooney argued for respondent. Cause submitted.

At 9:48 a.m., the court recessed. At 9:51 a.m., the court reconvened with Blease, Acting Presiding Justice; Raye, Associate Justice; and Kolkey, Associate Justice.

**C041034      STANLEY v. CALIFORNIA STATE LOTTERY COMMISSION**

Cause called. David I. Bass, Deputy Attorney General, argued for appellant. Kevin P. Roddy argued for respondent. Cause submitted.

**C041036      STANLEY v. CALIFORNIA STATE LOTTERY COMMISSION**

Cause called. David I. Bass, Deputy Attorney General, argued for appellant. Kevin P. Roddy argued for respondent. Cause submitted.

At 11:15 a.m., court recessed until Wednesday, August 20, 2003 at 9:30 a.m.

**C039332      THE PEOPLE v. GALLON      (Not for Publication)**

The judgment is affirmed.  
KOLKEY, J.  
We concur: Davis, Acting P.J.  
Morrison, J.

**C041267      THE PEOPLE v. LO      (Not for Publication)**

The judgment is affirmed.  
RAYE, J.  
We concur: Blease, Acting P.J.  
Davis, J.

**C041908      THE PEOPLE v. THOMASON      (Not for Publication)**

The judgment is modified...  
As modified, the judgment is affirmed.  
BLEASE, Acting P.J.  
We concur: Nicholson, J.  
Morrison, J.

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**The Minutes**

**August 18, 2003, continued**

**C042092      THE PEOPLE v. COOKE      (Certified for Publication)**

The judgment is reversed with directions to permit defendant to withdraw his admission of the probation violation and to enter a new plea to that charge. If defendant's prison sentence is executed, defendant is entitled to appropriate conduct credit while in prison as determined by the Director of Corrections.

MORRISON, J.

We concur:    Blease, Acting P.J.  
                 Robie, J.

**August 19, 2003**

**C040176      THE PEOPLE v. MALDONADO      (Not for Publication)**

That portion of the judgment imposing victim restitution is reversed. In all other respects, the judgment is affirmed. The matter is remanded to the trial court to conduct a restitution hearing.

HULL, J.

We concur:    Davis, Acting P.J.  
                 Raye, J.

**C040577      THE PEOPLE v. PHILPOTT      (Not for Publication)**

The order denying defendant's motion to set aside the 2001 stipulation is affirmed.

KOLKEY, J.

We concur:    Nicholson, Acting P.J.  
                 Raye, J.

**C041753      THE PEOPLE v. MILES      (Not for Publication)**

The judgment is affirmed.

ROBIE, J.

We concur:    Davis, Acting P.J.  
                 Hull, J.

**C042197      THE PEOPLE v. BILLS      (Not for Publication)**

The judgment is affirmed.

RAYE, Acting P.J.

We concur:    Morrison, J.  
                 Hull, J.

**C042498      THE PEOPLE v. EISOM      (Not for Publication)**

The judgment is affirmed.

ROBIE, J.

We concur:    Blease, Acting P.J.  
                 Hull, J.

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**August 19, 2003, continued**

**C042524      THE PEOPLE v. WHEAT      (Not for Publication)**

The judgment is affirmed.

ROBIE, J.

We concur:    Davis, Acting P.J.

Hull, J.

**C039827      M. PEREZ COMPANY, INC. v. BASE CAMP CONDOMINIUMS ASSOCIATION  
NO. ONE et al. and MEEKER      (Certified for Partial Publication)  
MEEKER v. BASE CAMP CONDOMINIUMS ASSOCIATION NO. ONE et al.**

The order of September 28, 2001, regarding indemnity and prevailing party attorney fees is reversed and the matter is remanded to the trial court for further proceedings consistent with the views expressed in this opinion. Base Camp shall receive its costs on appeal from Meeker. Meeker shall receive its costs on appeal from Henley. Henley shall bear its own costs on appeal.

**(CERTIFIED FOR PARTIAL PUBLICATION)**

HULL, J.

We concur:    Blease, Acting P.J.

Robie, J.

**C042490      In re S.D.-J.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND  
HUMAN SERVICES v. MARK J.      (Not for Publication)**

The orders of the juvenile court are affirmed.

DAVIS, Acting P.J.

We concur:    Morrison, J.

Kolkey, J.

**August 20, 2003**

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Blease, Acting Presiding Justice; Davis, Associate Justice; Hull, Associate Justice and Facey, bailiff.

**C025395      PLUMMER v. PARKS**

Cause called. Donald E. Parks, In Pro Per appellant, did not appear. Paul Plummer, In Pro Per respondent, did not appear. Cause submitted.

At 9:32 a.m., the court recessed. At 9:37 a.m., the court reconvened with Blease, Acting Presiding Justice; Davis, Associate Justice; and Raye, Associate Justice.

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**August 20, 2003, continued**

**C042291 THE PEOPLE ex rel. KATHLEEN CONNELL, as State Controller v. FERRIERA**

Cause called. Freda Pechner argued for appellant. Ralph Venturino, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:20 a.m., the court recessed until 9:30 a.m., Friday, August 22, 2003.

**C041652 THE PEOPLE v. HERZOG (Not for Publication)**

The judgment is affirmed.  
NICHOLSON, J.  
We concur: Blease, Acting P.J.  
Morrison, J.

**C041757 THE PEOPLE v. HERNANDEZ (Not for Publication)**

The superior court is directed to strike the restitution fine imposed upon revocation of defendant's probation pursuant to section 1202.4(b), award defendant two additional days of credit for time served, amend the abstract of judgment accordingly, and forward a copy of the amended abstract to the Director of the Department of Corrections. The section 1202.4(b) restitution fine imposed upon conviction remains in effect. In all other respects, the judgment is affirmed.

We concur: NICHOLSON, J.  
Blease, Acting P.J.  
Morrison, J.

**C043145      THE PEOPLE v. MARTINEZ      (Not for Publication)**

The judgment is modified to reflect 50 days of credit for time spent in custody. (§ 4019.) The trial court is directed to prepare an amended abstract of judgment and forward a certified copy of the amended abstract of judgment to the Department of Corrections. In all other respects, the judgment is affirmed.

We concur: NICHOLSON, J.  
Sims, Acting P.J.  
Morrison, J.

**C042835      In re T.D.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND  
HUMAN SERVICES v. A.V.      (Not for Publication)**

The order of the juvenile court is affirmed.  
 RAYE, Acting P.J.  
 We concur: Morrison, J.  
 Hull, J.

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Hull, J.

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**The Minutes**

**August 21, 2003, continued**

**C043057      THE PEOPLE v. MURRAY      (Not for Publication)**

The matter is remanded to the trial court with instructions to hold a limited hearing, within 30 days of the date the remittitur is filed in the superior court, on the probation condition requiring drug rehabilitation and testing. In advance of the hearing, the trial court shall order preparation of a supplemental probation report addressing only the issue of drug rehabilitation and testing. Defendant, her counsel, and the prosecutor may present additional evidence and argument at the limited hearing, after which the court shall exercise its discretion and determine whether or not the probation condition should be imposed or modified. In all other respects, the judgment is affirmed.

RAYE, Acting P.J.

We concur: Morrison, J.  
Hull, J.

**C041708      HASTINGS v. DEPARTMENT OF CORRECTIONS  
BY THE COURT:**

Appellant's petition for rehearing is denied.  
BLEASE, Acting P.J.

**August 22, 2003**

At 9:37 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Davis, Associate Justice; Raye, Associate Justice; Kolkey, Associate Justice and Rios, bailiff.

**C040021      KNIGHT v. DODDS**

Cause called. Guy C. Burns argued for appellant. Michael R. Norton argued for respondent. Cause submitted.

At 10:42 a.m., the court recessed until 9:30 a.m., Monday, September 15, 2003.

**C040922      THE PEOPLE v. FRANKLIN      (Not for Publication)**

The judgment is affirmed.

ROBIE, J.

We concur: Sims, Acting P.J.  
Davis, J.

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**The Minutes**

**August 22, 2003, continued**

- C041862      THE PEOPLE v. SHARPE      (Not for Publication)**  
The prior conviction allegation under Penal Code Section 667, subdivision (d) (3), is reversed and the case is remanded to the trial court for further proceedings consistent with this opinion. In all other respects the judgments are affirmed.  
BLEASE, Acting P.J.  
We concur: Davis, J.  
Raye, J.
- C042217      THE PEOPLE v. GALLAWAY      (Not for Publication)**  
The judgment is affirmed.  
SIMS, Acting P.J.  
We concur: Hull, J.  
Kolkey, J.
- C042495      THE PEOPLE v. ZARATE      (Not for Publication)**  
The judgment is affirmed. The formal order of probation is ordered corrected to conform to the oral pronouncement of judgment, that is, the search and seizure condition is limited to the purpose of detecting alcohol or controlled substances.  
BLEASE, Acting P.J.  
We concur: Nicholson, J.  
Morrison, J.
- C042484      In re DEVON A.; DEPARTMENT OF HEALTH AND HUMAN SERVICES v. KIMBERLY A.      (Not for Publication)**  
The judgment (order) is affirmed.  
NICHOLSON, J.  
We concur: Blease, Acting P.J.  
Morrison, J.

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**The Minutes**

**August 22, 2003, continued**

**C042945      In re FELIPE S. et al.; DEPARTMENT OF HUMAN SERVICES v. AMBER S.  
(Not for Publication)**

The orders of the juvenile court terminating parental rights as to Shelby and selecting guardianship as the permanent plan for Felipe and Shannon are reversed and the matter is remanded for the limited purpose of determining whether DHS complied with the notice provisions of the ICWA and whether the ICWA applies in this case. If, after proper inquiry, the juvenile court determines that the relevant tribes were properly noticed and there either was no response or the tribes determined that the minors are not Indian children, the orders shall be reinstated. If notice was not given, the juvenile court shall order DHS to comply promptly with the notice provisions of ICWA. Thereafter, if there is no response from the tribe or if the tribe determines the minor is not an Indian child, the orders shall be reinstated. However, if any of the tribes determine the minors are Indian children or information is presented to the juvenile court that affirmatively shows the minor is an Indian child as defined by ICWA and the juvenile court determines ICWA applies to this case, the juvenile court is ordered to conduct a new section 366.26 hearing in conformance with all provisions of ICWA.

BLEASE, Acting P.J.

We concur:    Raye, J.  
                    Hull, J.